

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA	:	
- v. -	:	CONSENT PRELIMINARY ORDER
	:	OF FORFEITURE/
	:	<u>MONEY JUDGMENT</u>
FRED ELM,	:	
a/k/a "Frederic Elmaleh,"	:	S1 16 Cr. 356 (ER)
Defendant.	:	

WHEREAS, on or about May 16, 2018, FRED ELM, a/k/a "Frederic Elmaleh," (the "defendant"), and another, was charged in a five-count Superseding Indictment, S1 16 Cr. 356 (ER) (the "Indictment"), with securities fraud conspiracy, in violation of Title 18, United States Code, Section 371 (Count One); securities fraud, in violation of Title 15, United States Code, Sections 78j(b) and 78ff, Title 17, Code of Federal Regulations, Section 240.10b-5, and Title 18, United States Code, Section 2 (Count Two); wire fraud conspiracy, in violation of Title 18, United States Code, Section 1349 (Count Three); and wire fraud, in violation of Title 18, United States Code, Sections 1343 and 2 (Count Four); and failure to appear, in violation of Title 18, United States Code, Sections 3146(a)(1) and (b)(1)(A)(i) (Count Five);

WHEREAS, the Indictment included a forfeiture allegation as to Counts One through Four of the Indictment, seeking forfeiture to the United States, pursuant to Title 18, United States Code,

Section 981(a)(1)(C) and Title 28, United States Code, Section 2461, of any and all property, real and personal, that constitutes or is derived from proceeds traceable to the commission of the offenses charged in Counts One through Four of the Indictment;

WHEREAS, on or about May 15, 2020, the defendant pled guilty to Counts One and Two of the Indictment, pursuant to a plea agreement with the Government, wherein the defendant admitted the forfeiture allegation with respect to Counts One and Two of the Indictment and agreed to forfeit, pursuant to Title 18, United States Code, Section 981(a)(1)(C), and Title 28, United States Code, Section 2461(c): a sum of money equal to \$8,318,840.07 in United States currency, representing proceeds traceable to the commission of the offenses charged in Counts One and Two of the Indictment;

WHEREAS, the defendant consents to the entry of a money judgment in the amount of \$8,318,840.07 in United States currency representing the amount of proceeds traceable to the offenses charged in Counts One and Two of the Indictment that the defendant personally obtained; and

WHEREAS, the defendant admits that, as a result of acts and/or omissions of the defendant, the proceeds traceable to the offenses charged in Counts One and Two of the Indictment that the

defendant personally obtained cannot be located upon the exercise of due diligence.

IT IS HEREBY STIPULATED AND AGREED, by and between the United States of America, by its attorney Geoffrey S. Berman, United States Attorney, Assistant United States Attorney, Joshua A. Naftalis of counsel, and the defendant, and his counsel, Anthony Strazza, Esq., that:

1. As a result of the offenses charged in Counts One and Two of the Indictment, to which the defendant pled guilty, a money judgment in the amount of \$8,318,840.07 in United States currency (the "Money Judgment"), representing the amount of proceeds traceable to the offenses charged in Counts One and Two of the Indictment that the defendant personally obtained, shall be entered against the defendant.

2. Pursuant to Rule 32.2(b)(4) of the Federal Rules of Criminal Procedure, this Consent Preliminary Order of Forfeiture/Money Judgment is final as to the defendant, FRED ELM, and shall be deemed part of the sentence of the defendant, and shall be included in the judgment of conviction therewith.

3. All payments on the outstanding Money Judgment shall be made by postal money order, bank or certified check, made payable, in this instance, to United States Customs and Border Protection, and delivered by mail to the United States Attorney's

Office, Southern District of New York, Attn: Money Laundering and Transnational Criminal Enterprises Unit, One St. Andrew's Plaza, New York, New York 10007 and shall indicate the defendant's name and case number.

4. Upon entry of this Consent Preliminary Order of Forfeiture/Money Judgment, and pursuant to Title 21, United States Code, Section 853, United States Customs and Border Protection, or its designee the Office of Fines, Penalties, and Forfeiture shall be authorized to deposit the payment on the Money Judgment in the Treasury Assets Forfeiture Fund, and the United States shall have clear title to such forfeited property.

5. Pursuant to Title 21, United States Code, Section 853(p), the United States is authorized to seek forfeiture of substitute assets of the defendant up to the uncollected amount of the Money Judgment.

6. Pursuant to Rule 32.2(b)(3) of the Federal Rules of Criminal Procedure, the United States Attorney's Office is authorized to conduct any discovery needed to identify, locate or dispose of forfeitable property, including depositions, interrogatories, requests for production of documents and the issuance of subpoenas.

7. The Court shall retain jurisdiction to enforce this Consent Preliminary Order of Forfeiture/Money Judgment, and to

amend it as necessary, pursuant to Rule 32.2 of the Federal Rules of Criminal Procedure.

8. The Clerk of the Court shall forward three certified copies of this Consent Preliminary Order of Forfeiture/Money Judgment to Assistant United States Attorney Alexander J. Wilson, Co-Chief of the Money Laundering and Transnational Criminal Enterprises Unit, United States Attorney's Office, One St. Andrew's Plaza, New York, New York 10007.

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9. The signature page of this Consent Preliminary Order of Forfeiture/Money Judgment may be executed in one or more counterparts, each of which will be deemed an original but all of which together will constitute one and the same instrument.

AGREED AND CONSENTED TO:

GEOFFREY S. BERMAN
United States Attorney for the
Southern District of New York

By: 

JOSHUA A. NAFTALIS
Assistant United States Attorney
One St. Andrew's Plaza
New York, NY 10007
(212) 637-2310

4/28/2020

DATE

FRED ELM

By: 

FRED ELM

5/8/20

DATE

By: 

ANTHONY STRAZZA, ESQ.
Attorney for Defendant
245 Main Street, Suite 410
White Plains, NY 10601

5/8/20

DATE

SO ORDERED:


HONORABLE EDGARDO RAMOS
UNITED STATES DISTRICT JUDGE

5/15/2020
DATE